Supreme Court, U.S.
FILED

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No. _____

In The
Supreme Court Of The United States
October Term, 1997

Barbara Martin, *Petitioner*
vs.
UNITED STATES OF AMERICA; OFFICE OF THE PRESIDENT OF THE UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF TREASURY, Office of the Secretary; OFFICE OF THE SECRETARY; DEPARTMENT HEALTH AND HUMAN SERVICES, Office of the Secretary; SOCIAL SECURITY ADMINISTRATION, Office of the Commissioner; INTERNAL REVENUE SERVICE, Office of the Commissioner; STATE OF TEXAS; OFFICE OF THE GOVERNOR; TEXAS DEPARTMENT OF PUBLIC SAFETY, Office of the Director; OFFICE OF THE FORT BEND COUNTY CLERK; FORT BEND COUNTY, Texas, *Respondents*.

Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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Texas U.S.A.
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22 pp

QUESTIONS PRESENTED FOR REVIEW

1. May Statute 28 U.S.C. 1331, 1346, 1441 or 1442 allow Government Agencies to remove a case from state court to federal court, enabling federal court to dismiss case for "failure to state a claim", and thereby deny the Petitioner's Constitutionally guaranteed Unalienable Right to redress of grievance?

2. May the federal court hear an issue concerning, to whom pertains the original Common Law De Jure Citizenship of the Constitution for the United States (1787), and whether that De Jure Citizenship was destroyed with the advent of the Fourteenth Amendment (1868)?

3. May the federal government impose upon those who are of the original De Jure Citizenship, without their full knowledge and consent, the de facto, artificial citizenship, created by the Fourteenth Amendment?

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INTRODUCTION

Petitioner, Barbara Martin, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit, entered July 24, 1997.

OPINIONS BELOW

The Final Judgment of the United States District Court for the Southern District of Texas, dismissing case for "failure to state a claim", was filed December 23, 1996 (Martin v. USA, USDC No. H-96-CV-2563). The Final Judgment of the United States Court of Appeals for the Fifth Circuit, whose judgment is herein sought to be reviewed, granted Respondent's Motion to Dismiss, without giving an opinion. The Case is No. 97-20051, filed July 24, 1997.

JURISDICTION

The Circuit Court granted Respondent's Motion to Dismiss, and Judgment was entered on July 24, 1997 (No. 97-20051). This Court has jurisdiction to review the judgment below by Writ of Certiorari pursuant to 28 USC § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Article 1, Section 6 of the Bill of Rights which provides a Constitutionally guaranteed, Unalienable Right "to petition the government for a redress of grievances"; Statute 28 U.S.C. 1331, 1346, 1441 and 1442; and The Uniform Declaratory Judgments Act, Civil Practice and Remedies Code, (VTCA) Title 2, Chapter 37.

STATEMENT OF THE CASE

Barbara Martin has Certified Government Documents to prove she is a member of the Posterity (by blood, heritage) of the "One People" spoken of in the Preamble to the Unanimous *Declaration of Independence* (1776), and a Preamble (De Jure) Citizen of the State of Texas, by birth. By virtue of her Preamble (De Jure) State Citizenship, she is ipso facto a Preamble (De Jure) Citizen of the (Perpetual) union of States, styled as the United States of America. *Minor v. Happersett*, 88 U.S. 162,167 (U.S.Mo.1874); *Twining v. State of New Jersey*, 29 S.Ct. 14, 17,18, 211 U.S. 78, 94,96 (U.S.N.J.1908); *Sharon v. Hill*, 26 F. 337,343 (1885) (Circuit Court,D. California); *Declaration of Independence* (1777) *Preamble to the Unanimous Declaration of Independence of the Republic of Texas* (1836); *Preamble to the Constitution of the State of Texas* (1845); *Preamble to the Constitution for the United States of America* (1778)

Respondents, Government Agencies, are determined to force upon Petitioner, by "presumption" a (de facto) Fourteenth

Amendment) citizenship, with "equal/civil" rights, by refusing to acknowledge her Preamble (De Jure) Citizenship, and forcing certain statutes, which apply to Fourteenth Amendment citizenship on her, thereby causing an infringement of her "Unalienable" Rights. *Tijerina v. Brownell*, 141 F.Supp. 266,269 (D.C.Tex. 1956); *Boyd v. U.S.*, 6 S.Ct. 524,535, 29 L.Ed. 746, 116 U.S. 616,635 (U.S.N.Y.); *Adarand Constructors, Inc. v. Pena*, 115 S.Ct. 2097,2107 (U.S.Colo.1995); *City of Springfield v. Kenny*, 104 N.E.2d 65,66 (App.Ohio 1951; Hooven & Allison Co. v. Evatt, 65 S.Ct. 870,880, 324 U.S. 652, 671,672 (U.S.Ohio 1945)

The "presumption" was created when Barbara Martin was deceived and coerced, by Federal, State and Local Government Agencies, into unknowingly, without full disclosure, signing various "adhesion" contracts, thereby erroneously accepting certain various "statute" definitions as applying to her. *National Homeopathic Hospital Assn'n v. Britton*, 147 F.3d 551 (1944) Statute (Key) 179; See *Statutes 176* (Key) 90 FPD 4th-2 *Statute 179* Interpretation clauses and definitions in statutes construed; *Public Salary Tax Act*, House Resolution 3790, 4 USCS Sections 104-113. Section 110(a) "person" ("now covered by section 7701(1)(1) of said Title 16". See Definitions of "Person", Black's Law Dictionary, 4th Edition, 5th Edition, 6th Edition; Webster's 1828 Dictionary; and Fourteenth Amendment.

This is an action filed under the Uniform Declaratory Judgments Act, Civil Practice and Remedies Code, (VTCA) Title 2, Chapter 37, to enable the Petitioner to determine her "rights without waiting until

she has suffered irreparable damage." *McCart v. Cain* (Tex.Civ. App.1967) 416 S.W.2d 463; Petitioner has a present right "to have a judicial assurance that advantages will be enjoyed or liabilities escaped in the future." *U.S.Coffee & Tea Co. v. Texas & Pacific Ry.Co.*, 280 S.W.2d 290,293 (Tex.Civ.App. 5 Dist.1955); "in Texas, no present damage need be shown for declaratory judgment action. Vernon's Ann.Civ.St.Tex.Art.2524-1"(Now VTCA Title 2, Chapter 37) *Lacy v. Mid-Contenent Cas.Co.* (D.C.Tex.1965) 247 F.Supp.667; *Donald v. Carr* (Tex.Civ. App.1966) 407 S.W.2d 288; *Anderson v. McRae* (Tex.Civ.Ap. 6 Dist.1973) 49 S.W.2d 351; *Blackmon v. Parker*, 544 S.W.2d 810 (Tex.Civ.App. 8 Dist.1976; *Crickmer v. King*, 507 S.W.2d 314 (Tex.Civ.Ap.1974); *Ainsworth v. Oil City Brass Works* (271 S.W.2d 764 (Tex.Civ.App.1954).

The case was filed in State Court, because Petitioner, being a member of the "Posterity" derives her Citizenship from her ancestors (by blood), and not from the Fourteenth Amendment of (1868) nor by the Immigration Naturalization Act of the United States. Her Citizenship is her heritage. Therefore the State Court has jurisdiction to hear this case, and not the Federal Court. See: *Franchise Tax Bd. Of State of Cal. V. Construction Laborers Vocation Trust for Southern California*, 103 S.Ct. 2841, 2848, 463 1, 13,14 (U.S.Cal.1983): *Harris v. U.S.* 204 F.Supp. 228, affirmed 308 F.2d 573 (D.C.Mass. 1962); *Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxities de Guinea*, 102 S.Ct. 2099,2103, 456 U.S. 694,701, 72 L.Ed.2d (U.S.Pa.1982);

The attorney for the Respondents USA, erroneously removed the case to Federal Court, where the Federal Judge dismissed it for "Failure to State a Claim." See: *International Primate Protection League v. Administrators of Tulane Educational Fund*, et al., 111 S.Ct. 1700,1705,1706, 500 U.S. 72,79,81, 114 L.Ed.134, 59 (U.S.La.1991); *Severson v. Home Owners Loan Corporation*, 1939, 88 F.2d 344, 184 Okl. 496; *Watt v. State of Alaska*, 101 S.Ct. 1673,1677, 451 U.S.259,265, 68 L.Ed.80, 11 Envtl. L.Rep. 20, 378 (U.S.Alaska 1981) (citation omitted); *Oliver v. Trunkline Gas Co.*, 789 F.2d 341,343 (C.A.5 Tex.1986); *United States v. Texas*, 12 S.Ct. 488,492, 143 U.S. 621,643, 36 L.Ed. 285 (U.S.Tex.1892); *Thompson v. Whitman*, 85 U.S. 457,463 (U.S.N.Y.1873); *Roe v. O'Donohue*, 38 F.3d 298,302,303, 304.

Petitioner appealed to the United States Court of Appeals for the Fifth Circuit, and the appellate court granted Respondent's Motion to Dismiss for "failure to state a claim." See: *Lonsdale v. Egger*, 525 F.Supp.610 (D.C.Tex.1981); *Frost v. Sun Oil Co.* (Delaware) 560 S.W.2d 467 (Tex.Civ.Ap. 1 Dist.1977); *Conley v. Gibson*, 78 S.Ct. 99,102, 355 U.S. 41,46 (U.S.Tex.1957); *Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit*, 113 S.Ct. 1160,1161, 1164, 122 L.Ed. 2d 517, 61 USLW 4205, 25 Fed.R.Serv.3d ; *Maty v. Grasselli Chemical Co.*, 58 S.Ct. 507,509, 303 U.S. 197,200(U.S.N.J.1938); *Societe Internationale Pour Participations Industrielies Et. Commercials, S.A. v Rogers*, 78 S.Ct. 1087,1088, 357 U.S. 197, 2 L.Ed. 2d 1255 (U.S.Dist.Col.1958); *U.S. v. Gaubert*, 111 S.Ct. 1267,1268, 499 U.S. 315 (U.S.Tex.

1991); *Thomas v. Collins*, 860 S.W.2d 500,503 (Tex.App.-Hous. (1 Dist.) 1993); *Ward v. Hudnall*, 366 F.2d 247,249 (C.A.5 (Tex.)

ARGUMENT

The judgment of the United States Court of Appeals for the Fifth Circuit should be reviewed by this Court because the Bill of Rights, Article 1, Section 6 guarantees an Unalienable Right to redress of grievances of Citizens of these united States of America (1787).

If the decision of the Court of Appeals for the Fifth Circuit and the Federal District Court is allowed to stand, then the Bill of Rights of the United States Constitution (1787), which were ordained and established by "We the People" to "secure the Blessings of Liberty" to themselves and their "Posterity", are, in effect, null and void.

Also, the statute authorizing removal of state court suits by federal officers does not permit removal by federal agencies.

No Agency of the United States or any other Government Agency has the power or authority to change the Petitioner's status of Citizenship from Dejure/Citizen, with "Unalienable" Rights to Fourteenth Amendment, citizen/subject, with "equal/civil" rights (privileges) by statute definitions.

The Respondents, Government Agencies, who operate under contract law jurisdiction, and not according to the perimeters of the United States Constitution (1787), are attempting to do just that.

The Constitution describes the unrestricted right to contract, so long as the action is taken for legal purposes. However, the Uniform Commercial Code defines the "unconscionable contract" as one entered

into without "informed consent". Because Petitioner, Barbara Martin has participated unknowingly, without "informed consent", in waiving her "Unalienable" Rights, the government "adhesion" contracts contain a serious "fault". As a result of the "fraud" the entire contract is null and void, as fraud vacates the most solemn promise to pay, and there are no statutes of limitation on fraud. *U.S. v. Ryan*, 52 S.Ct. 65,68, 284 U.S. 167,175 (U.S.Mont. 1931); *Ashwander v. Tennessee Valley Authority*, 56 S.Ct. 466, 297 U.S. 288 (U.S.Ala.1936); *Crowe et al v. The State of Missouri*, 14 Mo 237,264.

CONCLUSION

For the foregoing reasons, the Petitioner respectfully prays that her petition for a writ of certiorari be granted.

Respectfully submitted, this 17th day of October, 1997.

Barbara Martin

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IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 97-20051

BARBARA MARTIN

Plaintiff - Appellant

v.

UNITED STATES OF AMERICA; OFFICE OF THE PRESIDENT OF THE UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF TREASURY, Office of the Secretary; OFFICE OF THE SECRETARY; DEPARTMENT HEALTH AND HUMAN SERVICES, Office of the Secretary; SOCIAL SECURITY ADMINISTRATION, Office of the Commissioner; INTERNAL REVENUE SERVICE, Office of the Commissioner; STATE OF TEXAS; OFFICE OF THE GOVERNOR; TEXAS DEPARTMENT OF PUBLIC SAFETY, Office of the Director; OFFICE OF THE FORT BEND COUNTY CLERK; FORT BEND COUNTY, Texas

Defendants - Appellees

On July 24, 1997 an Order of the United States Court of Appeals for the Fifth Circuit was filed, granting a Motion to Dismiss for failure to state a claim, filed by Respondents, without argument, comment or opinion of the court.

COUNSEL

Barbara Martin, Pro Se, Houston, Texas, for Appellant. Robert L. Bernard, Houston, Texas for Appellees, U.S.A, et al, Matthew Lyle Rienstra, Austin, Texas, for Appellees, Governor of the State of Texas and Texas Department of Public Safety, and Randall W. Morse, Richmond, Texas, for Appellee, Office of the Fort Bend County Clerk.

U.S.Court of Appeals
FILED
Jul 24 1997
CHARLES R. FULBRUGE III
CLERK

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT
No. 97-20051

BARBARA MARTIN
Plaintiff - Appellant

v.

UNITED STATES OF AMERICA; OFFICE OF THE PRESIDENT OF THE UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF TREASURY, Office of the Secretary; OFFICE OF THE SECRETARY; DEPARTMENT HEALTH AND HUMAN SERVICES, Office of the Secretary; SOCIAL SECURITY ADMINISTRATION, Office of the Commissioner; INTERNAL REVENUE SERVICE, Office of the Commissioner; STATE OF TEXAS; OFFICE OF THE GOVERNOR; TEXAS DEPARTMENT OF PUBLIC SAFETY, Office of the Director; OFFICE OF THE FORT BEND COUNTY CLERK; FORT BEND COUNTY, Texas
Defendants - Appellees

Appeal from the United States District Court for the Southern District of Texas, Houston

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Before JOLLY, WIENER, and BARKSDALE, Circuit Judges.

BY THE COURT:

IT IS ORDERED that the motions of appellees to dismiss appeal is GRANTED,

IT IS FURTHER ORDERED that the alternative motion of appellees for extension of 30 days from the date of this court's denial of the motion to dismiss to file their brief is DENIED as Moot.

App. 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

BARBARA MARTIN,	{}	
Plaintiff,	{}	
versus	{}	CIVIL ACTION
	{}	H-96-2563
THE UNITED STATES OF AMERICA,	{}	
et al. Defendants	{}	

OPINION

Lynn N. Hughes, Federal District Judge

There is, however, at the moment, no genuine controversy affecting anything other than the complexities of modern life to which the government has made a significant and not entirely pleasant addition, but that's not a case of controversy over which I have a jurisdiction or that we can spend any longer the money of the people out there paying for it.

COUNSEL

Barbara Martin, Pro Se, Houston, Texas, for Appellant, Robert L. Bernard, Houston, Texas for Appellees, U.S.A, et al, Matthew Lyle Rienstra, Austin, Texas, for Appellees, Governor of the State of Texas and Texas Department of Public Safety, and Randall W. Morse, Richmond, Texas, for Appellee, Office of the Fort Bend County Clerk.

App. 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
ENTERED
Dec 23 1996
Michael N. Milby, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

BARBARA MARTIN, Plaintiff,	{}	
versus	{}	CIVIL ACTION
	{}	H-96-2563
THE UNITED STATES OF AMERICA, et al. Defendants	{}	

FINAL JUDGMENT

1. The case is dismissed for failure to state a claim (#3)
2. Martin's motion for default judgment against The United States of America is denied as moot (#4)
3. Martin's motion for sanctions is denied as moot (#16)
4. Martin's motion to remand is denied as moot (#20)

Signed December 19, 1996, at Houston, Texas

s/ L.N. Hughes
Lynn N. Hughes
United States District Judge